
PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT

**MOOIDRAAI TOWNSHIP ESTABLISHMENT (ZAMDELA EXT. 17),
PORTIONS OF PORTION 1 AND THE REMAINDER OF THE FARM
MOOIDRAAI 44, SASOLBURG, FREE STATE, SOUTH AFRICA**

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1) TERMS OF REFERENCE

The proposed Mooidraai Township Establishment (Zamdela Ext. 17), Sasolburg, Free State, aims to address the increased demand for accommodation in the Zamdela Township, near Sasolburg, Free State. The proposed, approximate 170ha development will comprise of more than 5,000 low and medium residential erven and related infrastructure including schools, business localities, churches and recreational /open areas. Associated linear development will include as minimum access roads, water and sewerage.

1.1) DEVELOPMENT LOCATION AND IMPACT

The Mooidraai Township Establishment will be located on an approximate 270ha development area comprising of portions of Portion 1 and the Remainder of the Farm Mooidraai 44, Sasolburg, Free State (1:50,000 map ref. – 2627DD).

The development will impact on the total surface area of the approximate 160ha development area to an estimated sub-surface level of approximately 1.5m deep. Development impact on the affected area will be total; resulting in the loss of all surface and sub-surface heritage sites / features that may be present within the proposed development area.



Figure 1: Sasolburg, Free State, South Africa

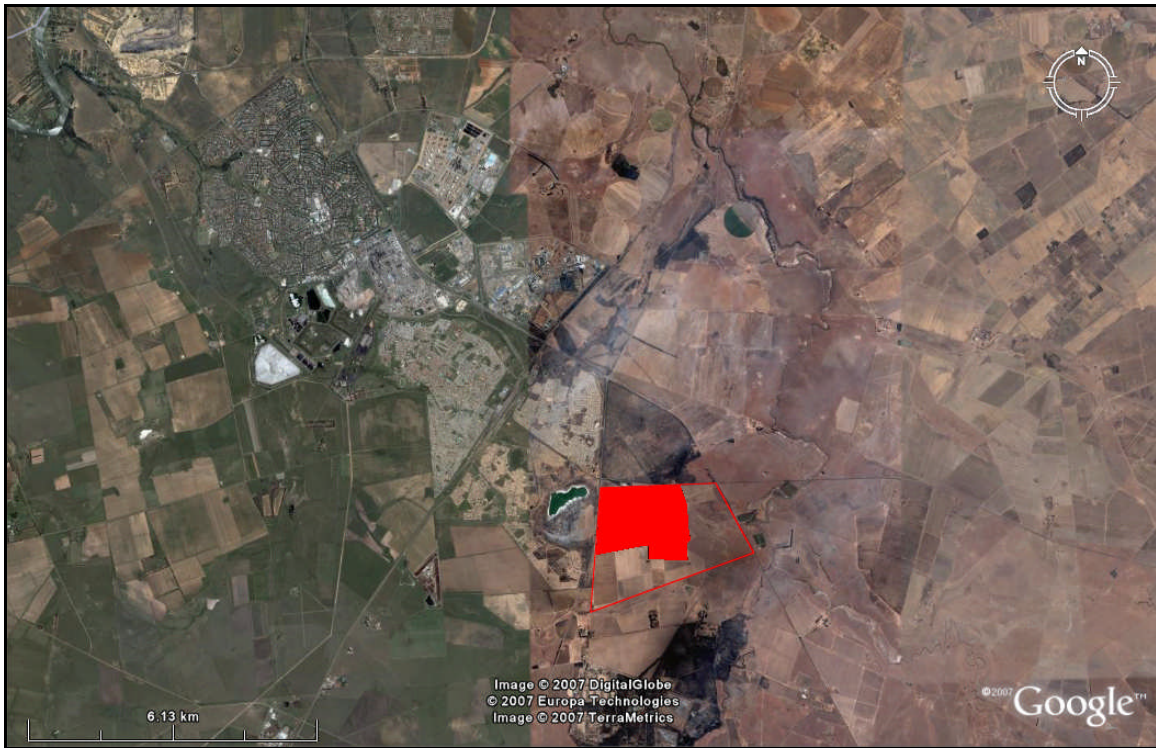


Figure 2: Location of the Moidraai 44 property (red outline) and the proposed Moidraai Township Establishment development area (red filled) in relation to Sasolburg

2) THE PHASE 1 ARCHAEOLOGICAL IMPACT ASSESSMENT

2.1) ARCHAEOLOGICAL LEGISLATIVE COMPLIANCE

The Phase 1 Archaeological Impact Assessment (AIA) was requested by the South African Heritage Resources Agency (SAHRA) mandatory responsible for the National Heritage Resources Act, Act No 25 of 1999 (NHRA 1999).

The Phase 1 AIA's was requested as specialist sub-section to the Environmental Impact Assessment (EIA) in compliance with requirements of the National Environmental Management Act, No 107 of 1998 (NEMA 1998) and associated regulations (2006), and the NHRA 1999 and associated regulations (2000).

The Phase 1 AIA aimed to locate, identify and assess the significance of cultural heritage resources, inclusive of archaeological deposits / sites, built structures older than 60 years, sites of cultural significance associated with oral histories, burial grounds and graves, graves of victims of conflict and cultural landscapes or views as defined and protected by the NHRA 1999, that may be affected by the proposed development. Palaeontological deposits / sites as defined and protected by the NHRA 1999 are not included as subject to this report.

2.2) COVERAGE AND GAP ANALYSIS

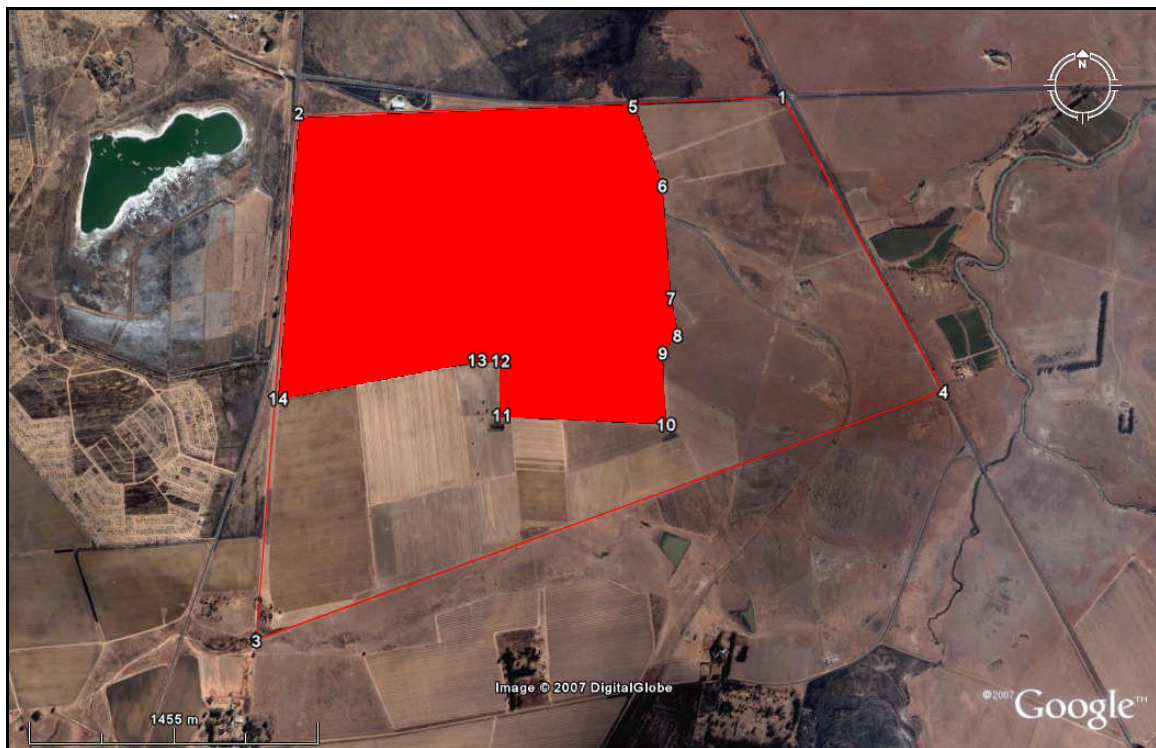


Figure 3: The Mooidraai Township Establishment development area (red filled), located on an approximate 270ha area of portions of Portion 1 and the Remainder of the Farm Mooidraai 44 (red outline)

The Phase 1 AIA covered the approximate 270ha development area of the proposed Moodraai Township Establishment, Sasolburg, Free State and immediate surrounds.

Access to the development area is via existing tarmac roads and within the proposed development area by limited gravel access roads.

2.3) **METHODOLOGY**

The Phase 1 AIA was conducted over a two day period (2007-09-10 to 2007-09-11) by one archaeologist. The assessment was done by foot and vehicle (LVD & 200cc quad) and limited to a Phase 1 surface survey; no excavation or sub-surface testing was done. Visibility ranged from fair to good. Sub-surface interpretations were based on existing animal burrows; no existing exposed sub-surface sections were present in the area. GPS co-ordinates were taken with a Garmin e-Trex Vista GPS (Datum: WGS84). Photographic documentation was done with a Casio X-S2 Exilim camera. A combination of Garmap and Google Earth software was used in the display of spatial information

Archaeological and cultural heritage site significance assessment and associated mitigation recommendations were done according to the system prescribed by SAHRA (2005).

SITE SIGNIFICANCE	FIELD RATING	GRADE	RECOMMENDED MITIGATION
High Significance	National Significance	Grade 1	Site conservation / Site development
High Significance	Provincial Significance	Grade 2	Site conservation / Site development
High Significance	Local Significance	Grade 3A / 3B	Site conservation or extensive mitigation prior to development / destruction
High / Medium Significance	Generally Protected A	-	Site conservation or mitigation prior to development / destruction
Medium Significance	Generally Protected B	-	Site conservation or mitigation / test excavation / systematic sampling / monitoring prior to or during development / destruction
Low Significance	Generally Protected C	-	On-site sampling, monitoring or no archaeological mitigation required prior to or during development / destruction

Table 1: Cultural heritage site significance assessment and mitigation recommendations

2.4) **PHASE 1 AIA ASSESSMENT FINDINGS**

The proposed development area is characterized by a mosaic of limited virgin land and old agricultural fields. A number of exiting gravel access roads originally served the agricultural fields with the primary property access road cutting through the approximate centre of the development area.

The area is bordered to the west by the R82 Koppies-Sasolburg road and to the north by the R549 Sasolburg-Dennysville road and an existing mill factory (located between the R549 and the proposed development area). To the east and south the area is bordered by low impact agricultural and related development on the remainder of the Mooidraai 44 property.



Figure 4: General view of the proposed development area with the mill factory in the background



Figure 5: The Mooidraai central access road running through the remains of former agricultural fields

Five cultural heritage resources were identified during assessment of the approximate 270ha development area. Four of the identified five resources are categorized as *Contemporary Cultural Heritage Resources*; one resource comprise of a *Historical Site*. The four contemporary cultural heritage resources do not comprise of 'sites' as defined and protected by the NHRA 1999; thus not forming the subject of this report. (Site M1 does however comprise a 'culturally sensitive' site and recommendations are included in the report.) The identified *Historical Site*, Site M4, comprise of both an archaeological site and a built structure older than 60 years as defined and protected by the NHRA 1999. Recommendations relating to the resource are subject to this report.

Identified *Contemporary Cultural Heritage Resources* comprise of: Site M1 (Commemorative crosses); Site M2 (De Beer's residence); Site M3 (Sisanane Victim Support Cluster); and Site M5 (a low density residential development). The identified *Historical Site* comprise of: Site M4 (the original Mooidraai 44 farmstead).

Of the identified resources the cultural sensitivity of Site M1 and the cultural heritage significance of Site M4 subject these resources to further development compliance.



Figure 6: Phase 1 AIA assessment findings

2.4.1) SITE DESCRIPTIONS

2.4.1.1) SITE M1: *Contemporary Cultural Heritage Feature* *- Commemorative Crosses*

- S 26°52'37.4"; E 27°53'12.7"

Site M1 is located to the west of the development area and immediately adjacent to the R82. The site comprise of 4 crosses erected in memory of P. Cilliers, P. Louw and L. Mabitsela, inferred to have lost their lives in a vehicle accident in the immediate vicinity. Commemorative crosses do not demarcate graves. The site is currently being maintained and visitation is evidenced by flowers and related memorabilia. The crosses are located in close proximity to one another, not exceeding a 1x1.5m surface area, situated on the sidewalk of the R82 and immediately bordering the proposed development area.

The large central wooden cross, with granite inscription plaque and cast iron decoration, carries the inscription 'KPLS; P. Cilliers; P. Louw; L. Mabitsela; 24-10-2004'. The 3 smaller wooden crosses with painted inscriptions are dedicated individually to each of the deceased, from north to south carrying the inscriptions '24 Oct 2004; L. Mabitsela'; '24 Oct 2004; P. Cilliers'; and '24 Oct 2004; P.Louw'.

✿ **Site Significance and Recommendations:** Based on the contemporary cultural value attached to the site, the site is assigned a *High Significance* and a *Generally Protected A* field rating. The site should be conserved at all cost.

The site is located on the sidewalk of the R82 and immediately west of the proposed development area. The site thus falls outside of the proposed development area. Proximity of the development to the site however does raise concern. Formal conservation of the site, by means of a fence and access gate is not recommended: The site is situated on the sidewalk of the R82 and proximity of formal conservation measures to the R82 will affect road safety by obscuring motorist vision and hampering pedestrian traffic. It is thus recommended that site conservation in the case of Site 1 comprise of:

- 1) Continuous maintenance of the site, without formal conservation measures (fence and access gate).



Figure 7: Site M1, contemporary commemorative crosses located immediately adjacent to the development area on the sidewalk of the R82

2.4.1.2) SITE M2: Contemporary Cultural Heritage Feature
- De Beer's Residence

- S 26°52'30.8"; E 27°53'45.8"

The De Beer's residence, a private residence, will directly be impacted on by the proposed development. Architecturally the residence dates to the 1970's. The site is thus not protected under the NHRA 1999.

✿ **Site Significance and Recommendations:** The contemporary De Beer's residence is located within the proposed development area. Development will directly impact on the site. Architecturally the site post-dates 60 years of age; the site is thus not protected under the NHRA 1999.

Site M2, the contemporary De Beer's residence, does not form the subject of this report and it is recommended that recommendations as per the SIA (Social Impact Assessment) or public liaison process be complied with.



Figure 8: The De Beer's residence

**2.4.1.3) SITE M3: Contemporary Cultural Heritage Feature
- Sisanane Victim Support Cluster**

- S 26°52'30.8"; E 27°53'50.2"

The Sisanane Victim Support Cluster, located on property seconded to the cluster by the municipality, will directly be impacted on by the proposed development. The cluster, originally based in Zamdela, was started in 2004 and moved to its current locality in March 2007. Despite the series of recent renovations, the origin of the house can reasonably be inferred to date to the 1970's. The site is thus not protected under the NHRA 1999.

✂ **Site Significance and Recommendations:** The Sisanane Victim Support Cluster is located within the proposed development area; development will directly impact on the site. Architecturally the site post-dates 60 years of age; the site is thus not protected under the NHRA 1999.

Site M3, the contemporary Sisanane Victim Support Cluster, does not form the subject of this report and it is recommended that recommendations as per the SIA (Social Impact Assessment) or public liaison process be complied with.



Figure 9: The Sisanane Victim Support Cluster

2.4.1.4) SITE M4: *Historical Period Site*
- *Mooidraai 44 Farmstead*

- S 26°52'33.1"; E 27°53'55.2"

Site M4, the original Mooidraai 44 farmstead is situated within the proposed development area. The site comprises of the sandstone remains of the original farmhouse, out-buildings and related farming infrastructure. Only the sandstone base structures remains; roofs, doors, windows, window frames and other fixtures have in the interim been removed. The site is currently not fenced in totality, existing fences demarcates activity areas associated with earlier farming activities. No family graveyard associated with the site could be located. No information could be obtained on the date of origin / construction of the farmstead infrastructure. Based on building materials used and architectural style a maximum of a 1920's-30's date is inferred. Origin of the site thus pre-dates 60 years of age, implying formal protection under the NHRA 1999.

☒ ***Site Significance and Recommendations:*** The historical Mooidraai 44 farmstead, comprising a Historical archaeological site and pre-dating 60 years of age, is formally protected under the NHRA 1999. The site is assigned a *Medium Significance* and a *Generally Protected B* field rating. The site significance rating is primarily based on the fact that the structure predates 60 years. The absence of associated archaeological material, including midden material diminishes the archaeological value of the site. Development will directly impact on the site. The site should be:

- 1) Formally conserved; or
- 2) Destroyed under a permit issue by SAHRA / FSPHRA (Free State Provincial Heritage Resources Agency);

Developer options:

- 1) As a first option and in accordance with current development plans, site destruction will be called for. Site destruction should proceed under a FSHRA *Site Destruction Permit*.
- 2) Should site destruction under a formal permit issued by the FSHRA not be granted formal *in situ* protection of the site, located in public open space, will be considered. (Due to the decayed / ruined state of the site alteration for use is not considered.)



Figure 10: General view of the Mooidraai 44 Historical Farmstead ruins



Figure 11: The original Mooidraai 44 farmhouse comprising part of the Site M4 historical farmstead



Figure 12: Mooidraai 44 historical farmstead outbuildings



Figure 13: Mooidraai 44 historical farmstead infrastructure

**2.4.1.5) SITE M5: Contemporary Cultural Heritage Feature
- Low Density Residential Development**

- S 26°52'26.2"; E 27°54'05.3"

The contemporary, low density, informal residential area, comprising of approximately 10 units will be directly impacted on by the proposed township establishment. The brick and cement units post-dates 60 years of age; the site is thus not protected under the NHRA 1999.

✿ **Site Significance and Recommendations:** The contemporary low-density residential development will directly be impacted on by the proposed development. Architecturally the site post-dates 60 years of age; the site is thus not protected under the NHRA 1999.

Site M5, the contemporary low-density residential development, does not form the subject of this report and it is recommended that recommendations as per the SIA (Social Impact Assessment) or public liaison process be complied with.



Figure 14: The contemporary low-density residential development

2.4.2) CONCLUSION

Assessment of the approximate 270ha Mooidraai Township Establishment development area yielded five cultural heritage resources inclusive of archaeological deposits / sites, built structures older than 60 years, sites of cultural significance associated with oral histories burial grounds and graves, grave of victims of conflict and cultural landscapes or viewsapes as defined and protected by the NHRA 1999. Specific categories of sites that will be affected include:

- 1) Archaeological deposits / sites; and
- 2) Built structures older than 60 years

Five cultural heritage resources were identified. Four resources comprise of *Contemporary Cultural Heritage Resources*; resources not formally protected under the NHRA 1999. Sites M2, M3 and M5 constitute contemporary residential areas, all of which, architecturally, post-dates 60 years of age and are by implication not protected by the NHRA 1999. Site M1, demarcating the locality of contemporary commemorative crosses, is not formally protected under the NHRA 1999. Cultural sensitivity associated with the site however designates site significance. One *Historical Site*, Site M4, the original Mooidraai 44 farmstead, comprise of both a historical archaeological site and a structure pre-dating 60 years of age. The site is formally protected under the NHRA 1999.

Cultural sensitivity associated with Site M1 calls for caution. Site M4 formally protected under the NHRA 1999 is subject to development recommendations / requirements as per the NHRA 1999.

3) RECOMMENDATIONS

The proposed development, the approximate 270ha Mooidraai Township Establishment, Sasolburg, Free State, will directly impact on five cultural heritage resources. Four identified resources (Sites M1, M2, M3 and M5) comprise of *Contemporary Cultural Heritage Resources*, not formally protected under the NHRA 1999. Of the four identified *Contemporary Cultural Heritage Resources* Site M1 can however be classed as culturally sensitive. One identified site (Site M4), the original Mooidraai 44 farmstead, comprising both a historical archaeological site and a built structure older than 60 years, is formally protected under the NHRA 1999.

It is recommended that development proceed provided the developer complies with the following recommendations:

- Sites M2 (De Beer's residence), M3 (Sisanane Victim's Support Cluster) and M5 (Low density residential development) comprising of contemporary residential areas, post-dating 60 years of age and thus not formally protected under the NHRA 1999. It is recommended that recommendations as per the SIA (Social Impact Assessment) or public liaison process be complied with.
- Site M1, a contemporary cultural heritage feature demarcates the locality of 4 commemorative crosses. The site is assigned a *High Significance* and a *Generally Protected A* field rating. Site conservation is recommended.

The site is located east of the R82 and immediately west of the proposed development area. Proximity of the site to the development area calls for concern. Formal conservation of the site, by means of a fence and access gate is not recommended: The site is situated on the sidewalk of the R82 and proximity of formal conservation measures to the R82 will affect road safety by obscuring motorist vision and hampering pedestrian traffic. It is recommended that site conservation in the case of Site M1 comprise of:

- 1) Continuous maintenance of the site, without formal conservation measures (fence and access gate).
- Site M4 demarcates the original Mooidraai 44 farmstead remains. The remains, comprising both a historical archaeological site with structure remains pre-dating 60 years of age are formally protected under the NHRA 1999. The site is assigned a *Medium Significance* and a *Generally Protected B* field rating. Site conservation or formal destruction under a FSHRA *Site Destruction Permit* is recommended.

As a first option and in accordance with current development plans, site destruction will be called for. Site destruction should proceed under a FSHRA *Site Destruction Permit*, to be applied for by the developer.

Alternatively, should site destruction under a formal permit issued by the FSHRA not be granted formal *in situ* protection of the site, located in public open space, will be considered. (Due to the decayed / ruined state of the site alteration for use is not recommended.)

MAP CODE	SITE	TYPE	DESCRIPTION	CO-ORDINATES	RECOMMENDATIONS
MOOIDRAAI 44					
1	-	-	-	S26°52'00.0"; E27°54'44.3"	-
2	-	-	-	S26°52'02.6"; E27°53'15.8"	-
3	-	-	-	S26°53'28.9"; E27°53'07.9"	-
4	-	-	-	S26°52'48.2"; E27°55'14.2"	-
5	-	-	-	S26°52'01.5"; E27°54'17.1"	-
6	-	-	-	S26°52'14.5"; E27°54'22.5"	-
7	-	-	-	S26°52'32.9"; E27°54'23.9"	-
8	-	-	-	S26°52'38.9"; E27°54'25.2"	-
9	-	-	-	S26°52'41.8"; E27°54'22.5"	-
10	-	-	-	S26°52'53.5"; E27°54'23.1"	-
11	-	-	-	S26°52'52.0"; E27°53'52.9"	-
12	-	-	-	S26°52'43.1"; E27°53'52.7"	-
13	-	-	-	S26°52'42.9"; E27°53'48.4"	-
14	-	-	-	S26°52'49.3"; E27°53'11.9"	-

*Mooirdraai 44: 1-2-3-4-1

*Mooirdraai Township Establishment development area: 5-2-14-13-12-11-10-9-8-7-6-5

*Identified cultural heritage resources: Sites M1-M5

*Identified cultural heritage resources formally protected under the NHRA1999: Site M4

CULTURAL HERITAGE RESOURCES LOCATED WITHIN THE PROPOSED MOOIDRAAI TOWNSHIP ESTABLISHMENT DEVELOPMENT AREA					
M1	Site M1	Cont.	Commemorative Crosses	S 26°52'37.4"; E 27°53'12.7"	Site Conservation: 1. Continuous maintenance (no formal conservation measures)
M2	Site M2	Cont.	De Beer's Residence	S 26°52'30.8"; E 27°53'45.8"	N/A
M3	Site M3	Cont.	Sisanane Victim Support Cluster	S 26°52'30.8"; E 27°53'50.2"	N/A
M4	Site M4	Historical	Mooirdraai 44 Farmstead	S 26°52'33.1"; E 27°53'55.2"	Site Destruction: (Recommended option) Site destruction under a FSHRA <i>Site Destruction Permit</i> (to be applied for and issued to the developer) OR Site Conservation: (Alternative option) <i>In situ</i> conservation of the site to be located in public open space (alteration for use is not recommended)
M5	Site M5	Cont.	Low Density Residential Development	S 26°52'26.2"; E 27°54'05.3"	N/A

Cont. – Contemporary

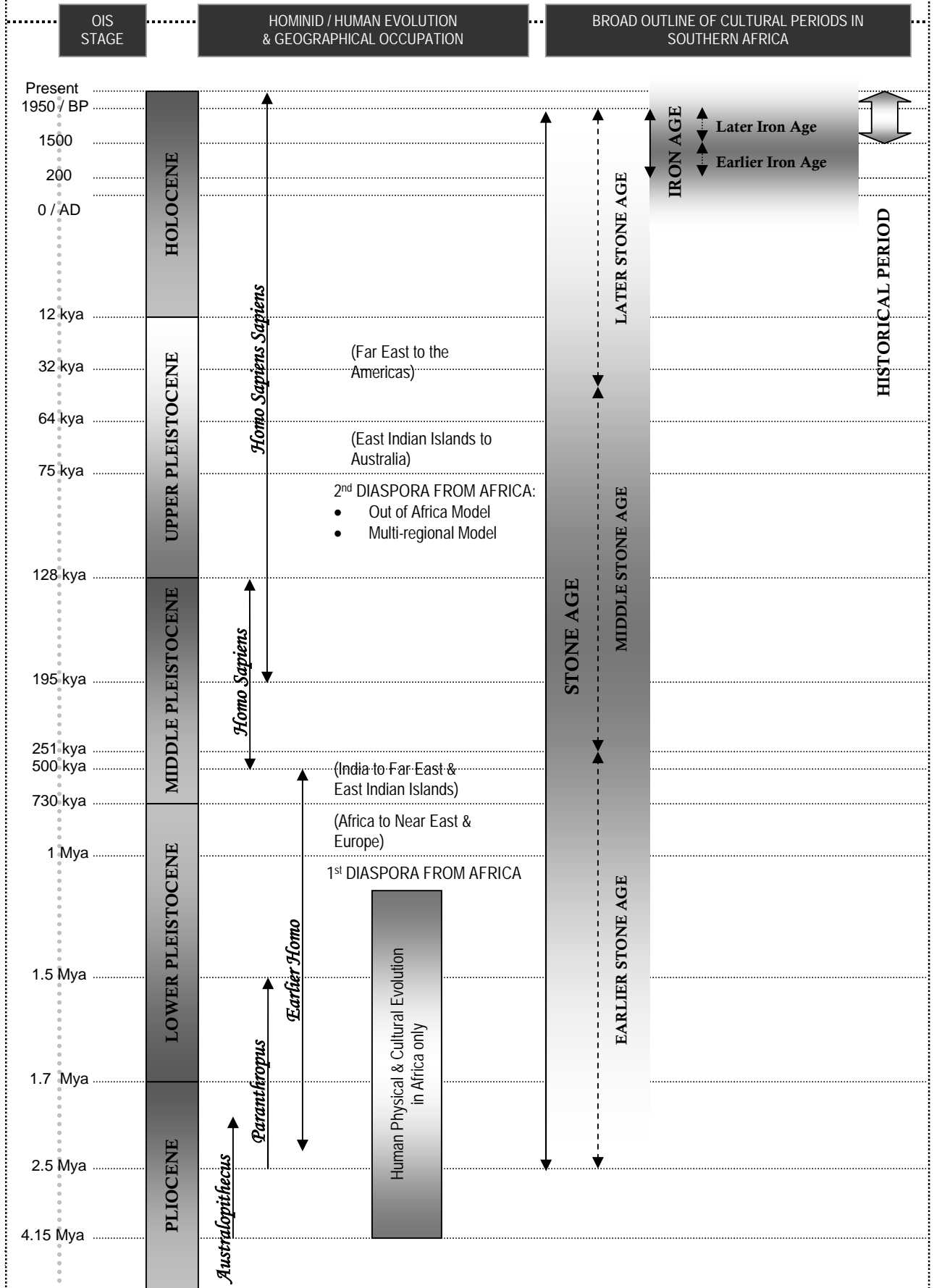
I&AP's – Interested and Affected Parties

Table 2: Summary of the proposed development area, identified and associated cultural heritage resources and relevant recommendations

4) REFERENCES CITED

1. South African Government. (No. 107) of 1998. *National Environmental Management Act*.
2. South African Government. (No. 25) of 1999. *National Heritage Resource Act*.
3. South African Heritage Resources Agency. 2005. *Minimum standards for the archaeological and heritage components of impact assessments*. Unpublished guidelines.

Schematic Outline of the Pre-historic and Historic Periods (Southern Africa)



EXTRACTS FROM THE

NATIONAL HERITAGE RESOURCES ACT (NO 25 OF 1999)

DEFINITIONS

Section 2

In this Act, unless the context requires otherwise:

- ii. “*Archaeological*” means –
 - a) material remains resulting from human activity which are in a state of disuse and are in or on land and which are older than 100 years, including artefacts, human and hominid remains and artificial features and structures;
 - b) rock art, being any form of painting, engraving or other graphic representation on a fixed rock surface or loose rock or stone, which was executed by human agency and which is older than 100 years, including any area within 10 m of such representation;
 - c) wrecks, being any vessel or aircraft, or any part thereof, which was wrecked in South Africa, whether on land, in the internal waters, the territorial waters or in the maritime culture zone of the Republic, ... and any cargo, debris, or artefacts found or associated therewith, which is older than 60 years or which SAHRA considers to be worthy of conservation.
- viii. “*Development*” means any physical intervention, excavation or action, other than those caused by natural forces, which may in the opinion of a heritage authority in any way result in a change to the nature, appearance or physical nature of a place, or influence its stability and future well-being, including –
 - a) construction, alteration, demolition, removal or change of use of a place or structure at a place;
 - b) carrying out any works on or over or under a place;
 - c) subdivision or consolidation of land comprising, a place, including the structures or airspace of a place;
 - d) constructing or putting up for display signs or hoardings;
 - e) any change to the natural or existing condition or topography of land; and
 - f) any removal or destruction of trees, or removal of vegetation or topsoil;
- xiii. “*Grave*” means a place of interment and includes the contents, headstone or other marker of such a place, and any other structure on or associated with such place;
- xxi. “*Living heritage*” means the intangible aspects of inherited culture, and may include –
 - a) cultural tradition;
 - b) oral history;
 - c) performance;
 - d) ritual;
 - e) popular memory;
 - f) skills and techniques;
 - g) indigenous knowledge systems; and
 - h) the holistic approach to nature, society and social relationships.
- xxxi. “*Palaeontological*” means any fossilised remains or fossil trace of animals or plants which lived in the geological past, other than fossil fuels or fossiliferous rock intended for industrial use, and any site which contains such fossilised remains or trace;
- xli. “*Site*” means any area of land, including land covered by water, and including any structures or objects thereon;
- xliv. “*Structure*” means any building, works, device or other facility made by people and which is fixed to land, and includes any fixtures, fittings and equipment associated therewith;

NATIONAL ESTATE

Section 3

- 1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.
- 2) Without limiting the generality of subsection 1), the national estate may include –
 - a) places, buildings, structures and equipment of cultural significance;
 - b) places to which oral traditions are attached or which are associated with living heritage;
 - c) historical settlements and townscapes;
 - d) landscapes and natural features of cultural significance;
 - e) geological sites of scientific or cultural importance
 - f) archaeological and palaeontological sites;
 - g) graves and burial grounds, including –
 - i. ancestral graves;
 - ii. royal graves and graves of traditional leaders;

- iii. graves of victims of conflict
 - iv. graves of individuals designated by the Minister by notice in the Gazette;
 - v. historical graves and cemeteries; and
 - vi. other human remains which are not covered in terms of the Human Tissue Act, 1983 (Act No 65 of 1983)
- h) sites of significance relating to the history of slavery in South Africa;
- i) movable objects, including –
- i. objects recovered from the soil or waters of South Africa, including archaeological and palaeontological objects and material, meteorites and rare geological specimens;
 - ii. objects to which oral traditions are attached or which are associated with living heritage;
 - iii. ethnographic art and objects;
 - iv. military objects;
 - v. objects of decorative or fine art;
 - vi. objects of scientific or technological interest; and
 - vii. books, records, documents, photographic positives and negatives, graphic, film or video material or sound recordings, excluding those that are public records as defined in section 1 xiv) of the National Archives of South Africa Act, 1996 (Act No 43 of 1996).

STRUCTURES

Section 34

- 1) No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.

ARCHAEOLOGY, PALAEOLOGY AND METEORITES

Section 35

- 3) Any person who discovers archaeological or palaeontological objects or material or a meteorite in the course of development or agricultural activity must immediately report the find to the responsible heritage resources authority, or to the nearest local authority offices or museum, which must immediately notify such heritage resources authority.
- 4) No person may, without a permit issued by the responsible heritage resources authority –
- a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;
 - b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;
 - c) trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object, or any meteorite; or
 - d) bring onto or use at an archaeological or palaeontological site any excavation equipment or any equipment which assists in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites.
- 5) When the responsible heritage resources authority has reasonable cause to believe that any activity or development which will destroy, damage or alter any archaeological or palaeontological site is under way, and where no application for a permit has been submitted and no heritage resources management procedure in terms of section 38 has been followed, it may –
- a) serve on the owner or occupier of the site or on the person undertaking such development an order for the development to cease immediately for such period as is specified in the order;
 - b) carry out an investigation for the purpose of obtaining information on whether or not an archaeological or palaeontological site exists and whether mitigation is necessary;
 - c) if mitigation is deemed by the heritage resources authority to be necessary, assist the person on whom the order has been served under paragraph a) to apply for a permit as required in subsection 4); and
 - d) recover the costs of such investigation from the owner or occupier of the land on which it is believed an archaeological or palaeontological site is located or from the person proposing to undertake the development if no application for a permit is received within two weeks of the order being served.
- 6) The responsible heritage resources authority may, after consultation with the owner of the land on which an archaeological or palaeontological site or meteorite is situated, serve a notice on the owner or any other controlling authority, to prevent activities within a specified distance from such site or meteorite.

BURIAL GROUNDS AND GRAVES

Section 36

- 3) No person may, without a permit issued by SAHRA or a provincial heritage resources authority –
 - a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;
 - b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority; or
 - c) bring onto or use at a burial ground or grave referred to in paragraph a) or b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.
- 4) SAHRA or a provincial heritage resources authority may not issue a permit for the destruction of any burial ground or grave referred to in subsection 3a) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant and in accordance with any regulations made by the responsible heritage resources authority.
- 5) SAHRA or a provincial heritage resources authority may not issue a permit for any activity under subsection 3b) unless it is satisfied that the applicant has, in accordance with regulations made by the responsible heritage resources authority –
 - a) made a concerted effort to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
 - b) reached agreements with such communities and individuals regarding the future of such grave or burial ground.
- 6) Subject to the provision of any other law, any person who in the course of development or any other activity discovers the location of a grave, the existence of which was previously unknown, must immediately cease such activity and report the discovery to the responsible heritage resources authority which must, in co-operation with the South African Police Service and in accordance with regulations of the responsible heritage resources authority –
 - a) carry out an investigation for the purpose of obtaining information on whether or not such grave is protected in terms of this Act or is of significance to any community; and
 - b) if such grave is protected or is of significance, assist any person who or community which is a direct descendant to make arrangements for the exhumation and re-interment of the contents of such grave or, in the absence of such person or community, make any such arrangements as it deems fit.

HERITAGE RESOURCES MANAGEMENT

Section 38

- 1) Subject to the provisions of subsections 7), 8) and 9), any person who intends to undertake a development categorised as –
 - a) the construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300 m in length;
 - b) the construction of a bridge or similar structure exceeding 50 m in length;
 - c) any development or other activity which will change the character of a site –
 - i. exceeding 5 000 m² in extent; or
 - ii. involving three or more existing erven or subdivisions thereof; or
 - iii. involving three or more erven or subdivisions thereof which have been consolidated within the past five years; or
 - iv. the costs which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;
 - d) the rezoning of a site exceeding 10 000 m² in extent; or
 - e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.
- 2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection 1) –
 - a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or
 - b) notify the person concerned that this section does not apply.
- 3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection 2a) ...

- 4) The report must be considered timeously by the responsible heritage resources authority which must, after consultation with the person proposing the development decide –
 - a) whether or not the development may proceed;
 - b) any limitations or conditions to be applied to the development;
 - c) what general protections in terms of this Act apply, and what formal protections may be applied, to such heritage resources;
 - d) whether compensatory action is required in respect of any heritage resources damaged or destroyed as a result of the development; and
 - e) whether the appointment of specialists is required as a condition of approval of the proposal.

APPOINTMENT AND POWERS OF HERITAGE INSPECTORS

Section 50

- 7) Subject to the provision of any other law, a heritage inspector or any other person authorised by a heritage resources authority in writing, may at all reasonable times enter upon any land or premises for the purpose of inspecting any heritage resource protected in terms of the provisions of this Act, or any other property in respect of which the heritage resources authority is exercising its functions and powers in terms of this Act, and may take photographs, make measurements and sketches and use any other means of recording information necessary for the purposes of this Act.
- 8) A heritage inspector may at any time inspect work being done under a permit issued in terms of this Act and may for that purpose at all reasonable times enter any place protected in terms of this Act.
- 9) Where a heritage inspector has reasonable grounds to suspect that an offence in terms of this Act has been, is being, or is about to be committed, the heritage inspector may with such assistance as he or she thinks necessary –
 - a) enter and search any place, premises, vehicle, vessel or craft, and for that purpose stop and detain any vehicle, vessel or craft, in or on which the heritage inspector believes, on reasonable grounds, there is evidence related to that offence;
 - b) confiscate and detain any heritage resource or evidence concerned with the commission of the offence pending any further order from the responsible heritage resources authority; and
 - c) take such action as is reasonably necessary to prevent the commission of an offence in terms of this Act.
- 10) A heritage inspector may, if there is reason to believe that any work is being done or any action is being taken in contravention of this Act or the conditions of a permit issued in terms of this Act, order the immediate cessation of such work or action pending any further order from the responsible heritage resources authority.